IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 120 of 2000

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LOK ADHIKAR SANGH

Versus

STATE OF GUJARAT

Appearance:
GIRISH PATEL ASSOC for Petitioner
PUBLIC PROSECUTOR for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 3
MR KG Vakharia with Ms. Avni S Mehta for
Respondent No. 6 to 8

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE B.C.PATEL

Date of decision: 27/03/2000

CAV JUDGEMENT (Per D.M.Dharamadhikari, CJ)

The petition has been filed by Lok Adhikar Sangh which is a non-government Organisation committed to the defence and protection of the civil rights of the people and particularly of the poor and downtrodden in the State of Gujarat. The Institution filed this petition on allegation against the respondent Police Authorities of Surat and respondent no.6,7 & 8 as the persons engaged in building construction activities. That they together in conspiracy manhandles 20 persons of Bharvad community and kidnapped 4 children name in the petition who are kept in solitary confinement and whose whereabouts are not known to their parents. On 17.2.2000, we took cognisance of the matter. We directed that in view of the allegations against the Police Authorities of Surat, IGP, Surat may take over the investigation. The first priority would be to find out the whereabouts of the 4 children, 2 boys and 2 girls who were said to be missing. The IGP, Surat Range was instructed through the Public Prosecutor to take immediate steps for rescuing the 4 children. On 28.2.2000, this Court was informed that the investigation has now been handed over to 2 teams of the Police, one head by ASI Shri K.S.Trivedi and other headed by P.I. Shri V.S.Rabari of Navsari Town Police Station.

2. We were informed that the parents of the children and other concerned persons are interrogorated and whereabouts of 4 children Bhagubhen, Kankuben, Navghan and Bhopa are being traced.

3. On 2.3.2000, Ld. Counsel, Shri J.J.Yagnik appeared to inform this Court that the 4 children had been released from their confinement. They were present in Court with the Counsel and their parents. We directed the Counsel appearing for the petitioner to record their statements and file affidavit if necessary with regard to the background in which they alleged to have been kidnapped and were confined. For Respondent no.6, 7 & 8 Ld. Counsel Shri B.M.Mangukiya appeared and stated that there is absolutely no hands of the respondents in the incident of 4 children found missing and later on alleged to have been rescued. It is submitted that the above respondents are members of a Public Charitable Trust and in no manner involved in any alleged violation of human rights of any of the members of the Bharvad Community. On behalf of the respondent, he stated that the members of Bharvad Community are known land grabbers and adopt various dubious methods to pressurize the builders to pay the money before undertaking any construction work. A request was made on behalf of the respondents to file detailed counter affidavit to the affidavit filed on

behalf of the alleged 4 rescued children. The respondent no.6,7 & 8 have filed a detailed affidavit denying all allegations against them.

4. Since this Public Interest Litigation was entertained for the limited purpose of protecting the civil liberties of the 4 children who were found missing, we refrain from going into the allegations and counter allegations made by the parties with regard to the background in which the incident happened. The version of the children has been made known to this Court in the shape of an affidavit and statement on their behalf recorded by the Counsel appearing for the petitioner. There is also on record the reply and affidavit of respondent no.4, 5 & 6.

5. It is now for the Police Authority to investigate into the matter and if it is found that offences have been committed by any of the parties they shall take proper action against them in accordance with law. With the above directions and observations this Special Criminal Application stands disposed of. Notice discharged. No order as to costs.

(D.M.Dharmadhikari, CJ)

(B.C.Patel, J)

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